

REMARKS

Entry of the foregoing, reexamination and further and favorable reconsideration of the subject application in light of the following remarks, pursuant to and consistent with 37 C.F.R. § 1.114, are respectfully requested.

The Advisory Action Summary indicates that claims 31, 32, 35-37 and 39-43 stand rejected.

Claims 32, 35, 39, 42, and 43 have been amended. Claims 31, 36, 37, 38, 40, and 41 have been canceled without prejudice or disclaimer of the subject matter described therein.

Claim 32 has been rewritten in independent form, incorporating the language of claim 31. Claim 35 has been amended to depend from claim 32 in view of the cancellation of claim 31. Claim 39 has been rewritten, incorporating language from claim 32. Claim 42 has been rewritten in independent form, incorporating the language of claim 41. Support for the claims as amended can be found throughout the specification and claims as originally filed, at least as previously described.

No prohibited new matter has been introduced by way of the above amendments. Applicants reserve the right to file a continuation or divisional application on subject matter canceled by way of this Amendment.

Rejections under 35 U.S.C. § 112, first paragraph

Claims 36, 37 and 40 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly containing subject matter that was not described in the specification in such a manner as to enable a person of ordinary skill in the art to make and use the invention. Without agreeing with any of the alleged basis for the rejection, but simply in order to

expedite prosecution, claims 31, 36, 37, 38, 40, and 41 have been canceled without prejudice or disclaimer of the subject matter described therein. Therefore, the rejection is moot.

Rejections under the judicially created doctrine of obviousness-type double patenting

Claims 31, 35, 36, and 39 were rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-3 of U.S. Patent No. 6,319,502. The Office indicated in the Advisory Action that this rejection has been overcome by the Amendment and Reply filed May 10, 2005.

Claims 31, 35, 36, and 39 were rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-3 of U.S. Patent No. 6,270,771. The Office indicated in the Advisory Action that this rejection has been overcome by the Amendment and Reply filed May 10, 2005.

Claims 31, 32, 35-37, 39 and 40 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over claims 1-16 and 25 of co-pending Application No. 09/900,963. This rejection is respectfully traversed. Claims 1-26 of copending Application No. 09/900,963 were canceled in a Preliminary Amendment originally-filed with the divisional application on July 10, 2001. Therefore, the rejection is moot. Moreover, even if the Office maintains that the rejection is not moot, section 804 of the M.P.E.P. states that:

[i]f the "provisional" double patenting rejection in one application is the only rejection remaining in that application, the examiner should then withdraw that rejection and permit the application to issue as a patent, thereby concerting the "provisional" double patenting rejection in the other [application] into a double patenting rejection at the time the one application issues as a patent.

In view of the foregoing, withdrawal of the rejection is respectfully requested.

CONCLUSION

In view of the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order. Such action is earnestly solicited.

In the event that there are any questions relating to this application, it would be appreciated if the Examiner would telephone the undersigned concerning such questions so that prosecution of this application may be expedited.

The Director is hereby authorized to charge any appropriate fees that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800.

Respectfully submitted,

BUCHANAN INGERSOLL PC

(INCLUDING ATTORNEYS FROM BURNS, DOANE, SWECKER & MATHIS)

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